



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

August 15, 1957

Honorable William A. Harrison
Commissioner of Insurance
State Board of Insurance
Austin 14, Texas

Opinion No. WW-230

Re: Senate Bill No. 444, Acts
1957, 55th Legislature.

Dear Mr. Harrison:

Your opinion request concerns Senate Bill No. 444, Page 1425, Acts 1957, 55th Legislature, the relevant portions of which are as follows:

"Section 1. Every report, annual report, return, declaration, statement, or other document required to be made by any person, firm, association, company, corporation or other insurance organization under any provisions of the Insurance Code . . . shall contain and be verified by a written declaration that it is made under the penalties of perjury. Such written declaration and verification shall state and provide as follows: 'I declare under the penalties of perjury that I prepared* this (report, annual report, return, declaration, statement, or document, as the case may be) . . . and that this (report . . .), including the accompanying schedules, statements and exhibits is a true, correct, and completed (report . . .) based on all the information relating to this matter as required under the provisions of the Insurance Code . . .'"

We quote from your letter the following:

"In practically all cases the document to which the verification statement pertains is physically prepared by a large number of persons. It is, of course, prepared under the supervision of some particular person who is willing to verify the correctness of the document. However, this person would be unwilling to sign the verification statement to the effect that he prepared the document if the underlined word is to be interpreted so that the verification statement itself would be considered false if its signer is not the person who physically prepared the document but is merely the person who assumed responsibility for its preparation.

*Emphasis in all cases supplied.

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" . . . We respectfully ask your advice as to whether the person signing the declaration and verification would be subject to penalty if the verified report, annual report, return, declaration, statement, or document should be true and correct, even though such report, annual report, etc., has been prepared by the signer only in the sense that he supervised its preparation."

It is a canon of statutory construction that literal meaning of the statute may be disregarded where the intent of the law is plain, ascertainable from its own provisions, and where, to give the language used a literal meaning, would work an absurdity or manifest injustice. See, State v. J. M. Huber Corporation, 193 S.W.2d 882 (Civ. App. 1946) affirmed, 145 Tex. 517, 199 S.W.2d 501 (1947). In determining the sense in which language is used by the Legislature, we must look to the context and purpose of the legislation. Hidalgo County Drainage District No. 1 v. Davidson, 102 Tex. 539, 120 S.W. 849 (1909).

The purpose of the Legislature in passing this bill was to provide a method of verifying written declarations made by the companies involved. Since, as you have stated, the documents to be verified many times must be physically prepared by a large number of persons, we would not imply to the Legislature an intent for the document or report to be prepared by a single man. Moreover, it would be a manifest injustice to require someone to verify that he performed an act which may be impossible to perform. Therefore it is our opinion that the word "prepared" in the act refers to supervision of the preparation of the document involved. The person signing the declaration and verification would not be subject to penalty if the verified report, annual report, return, declaration, statement, or document should be true and correct, even though such report, annual report, etc., has been prepared by the signer only in the sense that he supervised its preparation.

SUMMARY

A person signing the declaration and verification required by Senate Bill No. 444, Acts 1957, 55th Legislature, would not be subject to penalty if the verified report, annual report, return, declaration, statement, or document should be true and correct, even though such report, etc., has been prepared by the signer only in the sense that he supervised its preparation.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
Frank W. Elliott, Jr.
Assistant

FWE:lm

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APPROVED:

OPINION COMMITTEE:

H. Grady Chandler, Chairman

J. W. Wheeler

Leonard Passmore

J. Mark McLaughlin

REVIEWED FOR THE ATTORNEY GENERAL

BY:

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